

REMARKS

Status of Claims and Summary of the Final Office Action

After entry of the amendments, claims 1-13 and 17-18 are pending in the Application. New claims 17-18 are identical to previously-canceled claims 14-15.

The Advisory Action states that Applicants' arguments from Applicants' Response dated August 22, 2002 to the Final Office Action are not persuasive.

There is no Item 1 of the Final Office Action.

Items 2-4 of the Final Office Action appear to be unchanged from like-numbered items from the Earlier Non-Final Office Action.

Item 2 rejects claims 1, 4, 7, and 10 under 35 U.S.C. § 102(e), hereinafter "Section 102(e)", as being anticipated by U.S. Patent No. 5,822,406 to Brown, hereinafter "Brown".

Item 3 rejects claims 2, 5, 8, 11, 13, and now-canceled 15 under 35 U.S.C. § 103(a), hereinafter "Section 103(a)", as being unpatentable over Brown in view of U.S. Patent No. 5,655,014 to Walsh *et al.*, hereinafter "Walsh".

Item 4 rejects claims 3, 6, 9, 12, and now-canceled 14 under Section 103(a) as being unpatentable over Brown in view of allegedly well-known prior art under the provisions of MPEP Sec. 2144.03.

Item 5 of the Final Office Action indicates that Applicants' arguments from Applicants' Response dated February 4, 2002 to the Earlier Non-Final Office Action have been considered but are deemed not persuasive.

Applicants respectfully traverse all rejections and request reconsideration.

Responses to Applicants' Arguments

Applicants have explained in great specific detail in Applicants' Responses dated August 22, 2002 and February 4, 2002 that the references cited in the Final Office Action and the Earlier Non-Final Office Action do not teach or suggest specific elements of Applicants' claims.

In response, the Advisory Action states that Applicants arguments are not persuasive. The Advisory Action dismisses Applicants' arguments only as follows:

the arguments are not deemed to be persuasive. The response to arguments are presented in the final office action dated May 22, 2002. [Advisory Action, page 2]

In turn, the Final Office Action similarly dismisses Applicants' arguments very succinctly, merely as follows:

Regarding applicant's arguments concerning microphone and alternate connections dependent on sensed voltage, the examiner respectfully disagrees since the above cited rejection more than adequately provides support for the claimed limitations.

Applicants respectfully disagree. As can be seen from the above-quoted remarks, the Advisory and Office Actions have not at all addressed Applicants' arguments in any adequate or meaningful manner. In contrast, Applicants' arguments have addressed the original rejections in great specific point-by-point detail.

If the Examiner, after reconsideration of Applicants' arguments as set forth below and previously, still wishes to maintain the rejections, then Applicants sincerely implore the Examiner to explain in specific and greater detail exactly where in the cited references that the disputed elements of Applicants' claims are allegedly taught. Applicants sincerely cannot find such alleged teachings.

Without such more-specific explanation of the rejections, Applicants are left to guess as to the basis of the rejections.

Applicants respectfully remind the Examiner to avoid the problems that were disapproved of in *Ex parte Schriker*, 56 USPQ 2d 1723, 1725 (B.P.A.I. 2000) (unpublished):

The examiner has left applicant and the board to guess as to the basis of the rejection and after having us guess would have us figure out (i.e., further guess) what part of which ... document supports the rejection. We are not good at guessing.

Section 102 Rejections

The Final Office Action repeats rejection of claims 1, 4, 7, and 10 as being anticipated by Brown. Applicants respectfully disagree.

In Applicants' system, the microphone (or headset) is connected to a telephone or an alternative device, depending on whether the sensed voltage exceeds a threshold. Item 2 of the Final Office Action contends that Brown teaches this Applicants' feature at Brown's col. 3, line 48 to col. 4, line 64 and in Brown's figs. 1B and 2. Applicants respectfully submit that Brown simply does not teach this feature of Applicants' system, in the cited portions or in any other portion.

Brown discusses a modem controller 112 that helps a computer perform twenty-one different telephony-related or data-transfer-related functions. Each of these functions corresponds to a "mode" (see Table 1) of the modem controller 112. The cited portions of Brown outline the basic architecture of Brown's system but do not discuss any actual connecting logic employed by the modem controller 112. At most, the cited portions of Brown merely disclose "a computer system 100 that is coupled to a telephone set 101, a modem 102, speaker 103, headset 104, and microphone 105" (col. 3, lines 48-50) and that includes a "modem controller 112" that generates "switching control signals in accordance with an application program" (col. 4, lines 31-33). Among the inputs of the modem controller 112 is a local phone off-hook detect (LPOHD) (col. 4, lines 37-38).

The cited portions of Brown do not discuss the actual connecting logic employed by the modem controller 112. On the contrary, the cited portions of Brown state no more than that "[d]epending on which mode is selected by the user and the status of various devices as indicated by the hardware, the switching circuit automatically makes the proper connections" (col. 4, lines 14-17). Thus, as is exemplified by the just-quoted sentence of Brown, the cited portions of Brown at most merely state that the switching circuit will handle its inputs and otherwise do what the user-selected programming (i.e., "mode") tells the switching circuit to do. The cited portions of Brown do not give further

elaboration. Accordingly, it is seen that the cited portions of Brown do not in fact teach or disclose the feature in question of Applicants' system.

It is the remaining non-cited portions of Brown that go on to discuss the actual switching that occurs in Brown's system, under each of the twenty-one modes. Applicants respectfully submit that Brown, even including these remaining non-cited portions, still does not in fact teach or disclose the feature in question of Applicants' system. Indeed, Brown exhaustively discusses all 21 "modes" of its system, but not one of the modes shows the feature in question of Applicants' system. Furthermore, Brown explicitly states that switching across the detailed modes is done simply by ordinary user selection (col. 4, lines 14-17).

Even under the Final Office Action's contention that the local phone off-hook detect (LPOHD) of Brown "reads on [Applicants'] claimed 'sensing a voltage'", then Brown still does not anywhere show Applicants' system's alternatively connecting a microphone (or headset) to a telephone or an alternative device depending on whether the sensed voltage exceeds a threshold. On the contrary, Brown discusses using the LPOHD signal only in various ways other than to alternatively connect a microphone (or headset) to a telephone or an alternative device, depending on whether the sensed voltage exceeds a threshold. For example, the LPOHD of Brown is used when Brown's system functions as a telephone answering machine--i.e., is in "mode 4". In mode 4:

When the telephone goes off-hook [i.e., is answered automatically], the detector 202 activates the LPOHD signal. Thereupon, the firmware sets the modem up to record the message, similar to an answering machine.*

(Brown, col. 9, lines 13-16, bracketed text added)

Thus, Brown's system will connect the telephone line, which is already extraneously connected to the caller's telephone, to the computer's audio input for recording an incoming message, as triggered by the LPOHD, but this usage

does not even involve the microphone at all, much less make a connection or an alternative connection for the microphone.

In summary, Applicants have shown in detail that Brown does not disclose all elements of any of Applicants' claims. Therefore, Brown does not anticipate any of Applicants' claims.

Section 103 Rejections

The Final Office Action repeats rejection of dependent claims 2, 5, 8, 11, 13, and former claim 15 (now 18) under Section 103(a) as being unpatentable over Brown in view of Walsh. The Final Office Action repeats rejection of claims 3, 6, 9, 12, and former claim 14 (now 17) under Section 103(a) as being unpatentable over Brown in view of allegedly well-known prior art under the provisions of MPEP Sec. 2144.03. Applicants respectfully disagree with these rejections.

The Final Office Action relied on Brown to supply the feature, discussed above in connection with Section 102, that is part of every dependent claim via dependency. Applicants have shown above and previously that Brown does in fact, not disclose or suggest this feature. The Examiner has not alleged that Walsh or general knowledge discloses or suggests this feature, and Applicants have explained previously that Walsh does not disclose or suggest this feature. Accordingly, even if all cited references were combined, the combination would still not include all limitations of any claim. Accordingly, the dependent claims are allowable over any combination of the cited art under Section 103.

The Final Office Action repeats the Examiner's official notice from the Earlier Non-Final Office Action that it is well known in the art to provide a personal computer and voice commands. The Final Office Action alleges that "the applicant failed to adequately traverse such findings [and] failed to specifically point out the supposed errors." Applicants respectfully disagree. Applicants respectfully point out that Applicants traversed such findings by stating:

Even if these devices are well-known, there is no suggestion, teaching, or motivation shown to have the microphone (or headset)

automatically connected alternately to a personal computer and a telephone line. Brown is primarily directed to allowing disparate devices to share a single telephone line, not to the automatic switching of a microphone (or headset). Accordingly, the limitations of the claims are not obvious over the cited art and "well-known prior art." Nor is there any suggestion, teaching, or motivation shown to modify the art to yield the limitations of Applicants' claims.

[Applicants' Response dated February 4, 2002, page 10]

Applicants respectfully submit that the above-quoted statement very clearly disputes the Examiner's "noticed fact" as used to reject Applicants' claims. The Final Office Action states that "[h]ence the examiner's statements regarding it being well known in the art to provide a personal computer and voice commands is taken to be admitted prior art because applicant failed to ... adequately traverse the examiner's assertion". Again, Applicants respectfully disagree, by virtue of the above-quoted passage from Applicants' Response dated February 4, 2002.

Applicants are troubled because it seems that the Examiner is asserting that because "computers" and "voice commands" exist and are known in the world, any claim in any patent application that recites "computer" or "voice command" can be rejected without regard to "computer" and "voice command"; and "official notice" can afterward supply the elements of "computer" and "voice command" that are missing from the cited prior art. Applicants respectfully submit that this would be an inaccurate statement of patent law. In any event, the point is moot because, as explained above, all the alleged prior art, including the officially-noticed alleged prior art, even if combined, still fails to recite all elements of any of Applicants' claims.

Conclusion

Therefore, Applicants submit that their invention as currently claimed is not disclosed, taught, or suggested by the references of record. Therefore, it is submitted that all of the claims are allowable over the art of record, and it is respectfully requested that the application be passed to allowance.

Respectfully submitted,



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David D. Chung
Reg. No. 38,409
Phone: (650) 694-5339
Fax: (650) 968-4517

Correspondence Address:
Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830